

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: :
: :
BERNARD L. MADOFF INVESTMENT :
SECURITIES LLC, :
: :
Debtor. :
: :

PERTAINS TO THE FOLLOWING CASE: :
: :
IRVING H. PICARD, Trustee for the Liquidation :
of Bernard L. Madoff Investment Securities LLC, :
: :
Plaintiff, :
: :
-v- :
: :
J. EZRA MERKIN, GABRIEL CAPITAL, L.P., :
ARIEL FUND LTD., ASCOT PARTNERS, L.P., :
ASCOT FUND LTD., GABRIEL CAPITAL :
CORPORATION, :
: :
Defendants. :
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**REPLY DECLARATION OF MARIEL R. BRONEN IN SUPPORT OF MOTION
IN LIMINE BY DEFENDANTS TO EXCLUDE TESTIMONY AND EXHIBITS
RELATED TO WHETHER INVESTORS WERE MISLED WITH RESPECT TO
GABRIEL CAPITAL, L.P. AND ARIEL FUND LTD.'S EXPOSURE TO BLMIS**

I, Mariel R. Bronen, declare as follows:

1. I am an associate at the law firm of Dechert LLP, counsel to Defendants J. Ezra Merkin and Gabriel Capital Corporation.
2. I make this Declaration to put before the Court certain documents related to Defendants' Motion *in limine* to exclude the proposed testimony and exhibits related to investors' supposedly being misled about Gabriel Capital, L.P.'s and Ariel Fund Ltd.'s investments in managed accounts with Bernard L. Madoff Investment Securities LLC.

3. Attached to this Declaration as Reply Exhibit 1 is a copy of an excerpt from the deposition transcript of J. Ezra Merkin, *State of New York v. Ascot Partners, LP*, No. 450879/2009 (N.Y. Sup. Ct.) dated July 1, 2010.

4. Attached to this Declaration as Reply Exhibit 2 is a copy of an excerpt from the deposition transcript of J. Ezra Merkin dated February 24-25, 2015.

5. Attached to this Declaration as Reply Exhibit 3 is a copy of an excerpt from the deposition transcript of Michael E. Autera, Jr., dated October 19, 2011.

6. Attached to this Declaration as Reply Exhibit 4 is a copy of an excerpt from the deposition transcript of Joel Ehrenkranz dated March 20, 2014.

7. Attached to this Declaration as Reply Exhibit 5 is a copy of an email from J. Ezra Merkin to Patrick Erne regarding “RE: Meeting Request” dated October 3, 2007.

8. Attached to this Declaration as Reply Exhibit 6 is a copy of an excerpt from the deposition transcript of the Founder of Research Company A Principal.

9. Attached to this Declaration as Reply Exhibit 7 is a copy of an excerpt from the deposition transcript of the Founder of Research Company A Employee.

10. Attached to this Declaration as Reply Exhibit 8 is a copy of an email from J. Ezra Merkin to Naomi Ferro regarding “Odds and Ends” dated February 9, 2003.

11. Attached to this Declaration as Reply Exhibit 9 is a copy of the Defendants J. Ezra Merkin and Gabriel Capital Corporation’s Supplemental Responses to Plaintiff’s Second Set of Interrogatories and Requests for Admissions in Accordance with Decision #3 dated August 30, 2011.

12. Attached to this Declaration as Reply Exhibit 10 is a copy of an excerpt from the deposition transcript of John L. Steffens dated October 9, 2012.

13. Attached to this Declaration as Reply Exhibit 11 is a copy of an email from J. Ezra Merkin to Patrick Erne regarding “RE: 21 August 2007 letter from the Harvard Management Company” dated September 7, 2007.

14. Attached to this Declaration as Reply Exhibit 12 is a copy of an email from J. Ezra Merkin to Patrick Erne regarding “RE: Meeting Request” dated October 3, 2007.

15. Attached to this Declaration as Reply Exhibit 13 is a copy of an email from Research Company A Principal to J. Ezra Merkin regarding “RE: Visit to Mr. Madoff” dated October 9, 2007.

16. Attached to this Declaration as Reply Exhibit 14 is a copy of an email from Patrick Erne to J. Ezra Merkin regarding “Follow up” dated October 29, 2007.

17. Attached to this Declaration as Reply Exhibit 15 is a copy of an email from A. Green on behalf of yeshil@bluewin.ch to J. Ezra Merkin regarding “Bernie Madoff – Correction” dated March 10, 2008.

18. Attached to this Declaration as Reply Exhibit 16 is a copy of an email from J. Ezra Merkin to A. Green regarding “RE: be such” dated March 27, 2008.

19. Attached to this Declaration as Reply Exhibit 17 is a copy of an email from Roman Igolnikov to J. Ezra Merkin regarding “Meeting with Madoff” dated December 17, 2003.

20. Attached to this Declaration as Reply Exhibit 18 is a copy of an email from J. Ezra Merkin to Michael Autera forwarding an email from Roman Igolnikov to J. Ezra Merkin regarding “Ariel/Amber and Ascot” dated March 13, 2004.

21. Attached to this Declaration as Reply Exhibit 19 is a copy of an excerpt from the deposition transcript of Joshua Nash dated October 18, 2012.

22. Attached to this Declaration as Reply Exhibit 20 is a copy of an email from Michael Autera to Seiichiro Takahashi regarding "Follow up" dated June 17, 2004.
23. Attached to this Declaration as Reply Exhibit 21 is a copy of an emails between Michael Autera and Renee Nadler regarding "RE: Quick Question from Tufts" top-dated October 30, 2007.
24. Attached to this Declaration as Reply Exhibit 22 is a collection of Yeshiva University memorandum, minutes, and conflict of interest reports with Bates stamps YU 0000744-45, 0009586-88, 0001932-38, 0023065-68, 0001439-44, and 0001944-49.
25. Attached to this Declaration as Reply Exhibit 23 is a copy of the December 21, 1992 Minutes of the Yeshiva University Board of Trustee's Investment Committee, Bates stamped YU 0000724-33.
26. Attached to this Declaration as Reply Exhibit 24 is a copy of a letter from Peter Winstead to J. Ezra Merkin regarding "Mary Thomajan Investment of \$750,000 Ascot Partners, L.P." dated December 30, 1992.
27. Attached to this Declaration as Reply Exhibit 25 is a copy of a letter from Michael Autera to Ralph Kestenbaum regarding "Investment in Ascot Fund Ltd/Madoff & Co." dated September 1, 1992.
28. Attached to this Declaration as Reply Exhibit 26 is a copy of an email from Walter Link to Michael Autera regarding "M&H Properties LLC" dated November 6, 2008.
29. Attached to this Declaration as Reply Exhibit 27 is a copy of an excerpt from the deposition transcript of David K. Sherman dated August 30, 2011.
30. Attached to this Declaration as Reply Exhibit 28 is a copy of an excerpt from the deposition transcript of Tina Hyung Surh dated September 18, 2013.

31. Attached to this Declaration as Reply Exhibit 29 is a copy of an excerpt from the deposition transcript of Jason L. Orchard dated October 8, 2013.

32. Attached to this Declaration as Reply Exhibit 30 is a copy of an excerpt from the deposition transcript of Morris Smith dated March 4, 2014.

Dated: New York, New York
June 13, 2017

/s/ Mariel R. Bronen

Mariel R. Bronen

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